

1 Lori N. Brown, Esq.
2 Nevada Bar No. 8858
3 HARMON & DAVIES, P.C.
4 1428 S. Jones Blvd.
5 Las Vegas, NV 89146
6 T (702) 733-0036; F: (702) 733-1774
7 Attorneys for Defendants

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10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 DARREL BENDER, an individual, and
13 MIDTOWN GROUP, INC., a Nevada
14 corporation,

15 CASE NO. 2:11-cv-00172-GMN-RJJ

16 **STIPULATION AND ORDER FOR**
17 **DISMISSAL WITH PREJUDICE**

18 Plaintiffs,

19 v.

20 ROBERT OLIVIERI, an individual,
21 FLORDELIZA OLIVIERI, an individual, 3 IN
22 1, INC., a California corporation, DOE
23 Defendants 1 through 10, and ROE entities 1
24 through 10,

25 Defendants.

26 Plaintiffs DARREL BENDER and MIDTOWN GROUP, INC. and Defendants ROBERT
27 OLIVIERI, FLORDELIZA OLIVIERI, and 3 IN 1, INC., by and through their respective counsel
28 of record, as well as DARREL BENDER, in his individual capacity, and MIDTOWN GROUP,
INC., by and through its authorized representative, hereby agree and stipulate as follows:

1. This action shall be dismissed with prejudice, each party to bear their own costs
2. and fees;
2. The Emergency Motion to Withdraw as Counsel of Record (Expedited Ruling
3. Requested) (filed March 29, 2011) [Doc. 20], filed by R. DUANE FRIZELL, of
4. the law firm CALLISTER & FRIZELL, and JEFFREY S. NEEMAN, of the law
5. firm NEEMAN & MILLS, LTD., shall be GRANTED;

1 3. R. DUANE FRIZELL, the law firm CALLISTER & FRIZELL, JEFFREY S.
2 NEEMAN, and the law firm NEEMAN & MILLS, LTD. shall be allowed to
3 withdraw as counsel of record for Plaintiffs DARREL BENDER and MIDTOWN
4 GROUP, INC. in this action;

5 4. Any and all contempt or show cause proceedings in this action, including without
6 limitation those referenced in the Court's Minutes of Proceedings (filed on April
7 21, 2011 and entered on April 22, 2011), shall be permanently abated, arrested,
8 and vacated;

9 5. Any and all hearings, events, deadlines, and dates currently in effect in this action,
10 including without limitation the hearing scheduled for May 9, 2011 at 9:30 a.m.,
11 shall be vacated; and

12 6. Any and all relief and sanctions not expressly granted in this Stipulation and
13 Order, including without limitation any and all contempt and show cause
14 sanctions, shall be DENIED.

17 IT IS SO STIPULATED.

18 Dated: April 27, 2011.

19 Dated: April 27, 2011.

20 /s/ R. Duane Frizell, Esq.
R. DUANE FRIZELL, ESQ.
Nevada Bar No. 9807
CALLISTER & FRIZELL
8275 S. Eastern Avenue, Suite 200
Las Vegas, NV 89123
Attorney for Plaintiffs

21 /s/ Lori N. Brown, Esq.
LORI N. BROWN, ESQ.
Nevada Bar No. 8858
HARMON & DAVIES, P.C.
1428 S. Jones Blvd.
Las Vegas, NV 89146
Attorneys for Defendants

VERIFICATION OF DARREL BENDER AND MIDTOWN GROUP, INC.

STATE OF MI)
) ss.

COUNTY OF Wayne)

I, DARREL BENDER, in my individual capacity and on the behalf of MIDTOWN GROUP, INC., a Nevada corporation, do hereby swear and affirm under penalty of perjury that the assertions in the above Stipulation and Order for Dismissal with Prejudice are true and correct; that I have read this entire Stipulation and Order for Dismissal with Prejudice and know the contents thereof; that I have been advised to obtain new and independent attorney(s) for myself and for MIDTOWN GROUP, INC. to review and provide legal advice with respect to the contents and consequences of this Stipulation and Order for Dismissal with Prejudice; that I have declined to obtain new and independent attorney(s) for myself or for MIDTOWN GROUP, INC. for such purpose; that MIDTOWN GROUP, INC. and I are voluntarily entering into this Stipulation and Order for Dismissal with Prejudice of our own free will and choice; and that I have authority to bind MIDTOWN GROUP, INC. in and to this Stipulation and Order for Dismissal with Prejudice.

DARREL BENDER, Individually and on the behalf of
MIDTOWN GROUP, INC., a Nevada corporation

Subscribed and sworn to before me
in person this 29th day of May 2011

to me
of ~~KAY~~ 2011.
APRIL 13
mrb

NOTARY PUBLIC in and for
Said State and County

MARY REISING
Notary Public, State of Michigan
County of Macomb
My Commission Expires 7/9/2014
Acting in the County of Wayne



ORDER

Having reviewed the foregoing Stipulation of the Parties, Verification of Darrel Bender and Midtown Group, Inc., as well as the pleadings and papers on file with the Court Clerk, the Court finds just, good, and sufficient cause for granting the Stipulation.

IT IS THEREFORE ORDERED as follows:

1. This action is hereby dismissed with prejudice, each party to bear their own costs and fees;
2. The Emergency Motion to Withdraw as Counsel of Record (Expedited Ruling Requested) (filed March 29, 2011) [Doc. 20], filed by R. DUANE FRIZELL, of the law firm CALLISTER & FRIZELL, and JEFFREY S. NEEMAN, of the law firm NEEMAN & MILLS, LTD., is hereby GRANTED;
3. R. DUANE FRIZELL, the law firm CALLISTER & FRIZELL, JEFFREY S. NEEMAN, and the law firm NEEMAN & MILLS, LTD. are hereby withdrawn as counsel of record for Plaintiffs DARREL BENDER and MIDTOWN GROUP, INC. in this action;
4. Any and all contempt or show cause proceedings in this action, including without limitation those referenced in the Court's Minutes of Proceedings (filed on April 21, 2011 and entered on April 22, 2011), are hereby permanently abated, arrested, and vacated;
5. Any and all hearings, events, deadlines, and dates currently in effect in this action, including without limitation the hearing scheduled for May 9, 2011 at 9:30 a.m., are hereby vacated; and
6. Any and all relief and sanctions not expressly granted in this Order, including

1 without limitation any and all contempt and show cause sanctions, are hereby
2 DENIED.

3 **IT IS FURTHER ORDERED that ALL pending Motions are**
4 **DISMISSED as moot.**

5 **IT IS SO ORDERED** this 3rd day of May, 2011.

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Gloria M. Navarro
United States District Judge

H&D HARMON & DAVIES, PC.
ATTORNEYS AT LAW